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OFFICE OF PETITIONS

In re Application of	:	
Elliott et al.	:	
Application No. 10/736,059	:	DECISION ON PETITION
Filed: March 9, 2004	:	
Attorney Docket No. CET-025985	:	

This is a decision on the petition filed December 13, 2005, requesting that the above-identified application be accorded a filing date of December 15, 2003, with two sheets of drawings as part of the original disclosure.

On December 15, 2003, applicants deposited the above-identified application. On March 9, 2004, applicants filed a Transmittal of Formal Drawings, accompanied by two sheets of formal drawings (Figures 1-6). On May 21, 2004, applicants filed a Transmittal of Replacement Drawings, accompanied by one sheet of replacement drawings (Figures 5 and 6), which incorporated corrections to FIG. 6. On September 8, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings.¹ Nevertheless, it appears from the record that the Notice of Incomplete was withdrawn and that the Office accorded the above-identified application a filing date of March 9, 2004, the date of applicants' initial response to the Notice.

On December 13, 2005, applicants submitted the present petition, copies of the two sheets of formal drawings (Figures 1-6) and one sheet of replacement drawings (Figures 5 and 6). Additionally, applicants submitted a copy of their date-stamped postcard receipt, acknowledging receipt of "Two (2) Sheets of Informal Drawings" in the USPTO on December 15, 2003. Applicants requested that the Office corrects the filing date for the above-identified application from March 9, 2004 to December 15, 2003.

¹ Applicants stated that the Notice was dated nine (9) months after the initial filing. Applicants indicated that they did not receive the Notice until March 30, 2005, via facsimile transmission from the Office of Initial Patent Examination, and therefore, could not timely respond.

Upon review of the record, the two sheets of drawings deposited on December 15, 2003, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 15, 2003, included two sheets of drawings, which were subsequently misplaced in the USPTO. Unfortunately, applicants did not submit copies of the "Two (2) Sheets of Informal Drawings" as they were purportedly filed on December 15, 2003. Instead, applicants submitted copies of the two sheets of formal drawings (Figures 1-6) and one sheet of replacement drawings (Figures 5 and 6).

Accordingly, the petition is dismissed without prejudice. Any renewed petition under 37 CFR 1.182 must be filed within TWO MONTHS of the date of this decision and be accompanied by a copy of the "Two (2) Sheets of Informal Drawings," as they appeared on filing. This period is not extendable. See 37 CFR 1.181(f). No additional fee is necessary for filing the renewed petition. As applicants failed to meet all of the requirements for filing a grantable petition under 37 CFR 1.182, the \$400.00 petition fee will be charged to the Deposit Account, which is not refundable.

The application is being referred to Technology Center Art Unit 2832 for examination in the normal course of business.

Further correspondence with respect to this matter may be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300
Attention: Office of Petitions

By hand:

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

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